

Academic Freedom under Siege

RICHARD FALK

Princeton University (emeritus); University of California at Santa Barbara (Visiting)

At the very moment when original and critical thinking is urgently needed in America, the mechanisms of repression are put in play. There is no doubt that 9/11 presented American society with anguishing challenges, which called for a protective response, prudent adjustments in security, and some painful soul searching. Perhaps even more tragic for others than these triggering events, and in the end for the citizens of this country, is the less noticed date of 10/7. October 7 was the day a few weeks later when the Afghanistan War started, and “the global war on terror” shifted from a patrioteering White House slogan to a bellicose Pentagon reality. This militarist reflex to rely on the war option for post-9/11 security has been daily proving itself disastrously dysfunctional, and as its failures become more manifest, those American leaders responsible reaffirm their extremism, relying on the arousal of fear, demonization of the other, and global ambition to tame an inept and rudderless opposition, as well as to pacify a nervous, poorly informed, and confused public. And where there are expressions of significant, principled opposition, the impulse of the rulers and their civilian allies has been repressive, if not inquisitorial. In such a setting it is hardly surprising that academic freedom is today more menaced than at any time since the McCarthy witch hunts and loyalty oaths of the early 1950s.

My first reaction to being listed among the “101” that David Horowitz had identified as the most “dangerous” professors in the country was bemused pride—somewhat unsure as to whether I actually deserved the accolade, whether I was this dangerous to the radical right, and especially to the ideas and policies that hold sway in our government. I admit also to feeling a modest sense of accomplishment, to be viewed even by one so disreputable as Horowitz, as warranting inclusion in what can only be regarded as a perverse kind of national honor roll. But on further reflection, I realized that Horowitz was a mercenary foot soldier in an orchestrated, generously funded, multi-dimensional campaign against genuine democracy in this country that was being waged on many fronts at home while American leaders were circling the globe insisting that other societies become “democratic.” This Orwellian climate of lies, deceptions, and disingenuous euphemisms was epitomized by recourse to torture in dealing with terrorist suspects while at the same time verbally officially repudiating torture over and over again as a means to gain information. The Horowitz contention is along the same lines: denounce those that express critical views of ongoing events with candor and integrity, supposedly to restore “balance” within college and university settings so as to properly realize the truth-seeking goals of education. In effect, we are being asked to destroy education in the name of education.

The relentless pursuit and persecution of Ward Churchill is a revealing instance of the McCarthyist ethos that is currently threatening academic freedom. Admittedly, Churchill made some provocative comments about the victims of the 9/11 attacks that struck many as totally lacking in empathy for the victims,

as well as tasteless. His words could even be (mis)understood as a vindication of violence against civilians. But such a provocation could also be interpreted as merely the other side of the extremist coin from President Bush's absurdly self-congratulatory evasion: "why do they hate us? Because of our freedoms." It should be the most honorable calling of institutions of higher learning to provide safe haven for unpopular and distasteful views, including highly critical appraisals of national policy, especially at moments of crisis. Without critical thought, learning tends toward the sterile and fails to challenge inquiring young minds. For this reason alone, it is vital that we who belong to the academic community join together to protect those who draw repressive fire, whether or not we agree with the particular ideas or expressive metaphors of a particular individual. Instead of insulating Churchill from community pressures, the president of the University of Colorado, Hank Brown, has gone dramatically beyond the 1 year suspension recommended by a university committee, itself stacked against Churchill, to propose his dismissal altogether. Although the case is under review by the Board of Regents, and has attracted national attention, it is likely that the axe will fall heavily on the academic career of Ward Churchill.

And we should similarly be wary of opportunistic attacks on scholarship that are disguised means of sanctioning critics and stifling the free expression of ideas. It may be that aspects of Churchill's large body of published writings were vulnerable to responsible academic criticism, but the proceedings against him were not undertaken because of efforts to uphold high scholarly standards, but to provide a slightly more respectable basis for accommodating the right-wing fury aroused by his 9/11 remarks, which themselves were given a distorted inflammatory character by being removed from their rather obscure text of a planned college lecture that was never even delivered. Churchill's writings have been around for decades, and although they evoked some sharp debate among those engaged in ethnic and Native American studies, there earlier was never any serious consideration of the sort of institutional disciplinary process that has now been undertaken. On the contrary, Churchill's reputation within the University of Colorado was sufficiently strong that he was appointed by administrative officers to be chair of ethnic studies, a position he resigned after the flare-up. I mention Churchill's case with this degree of detail because it is so emblematic of a mood that threatens the vitality and integrity of the university atmosphere in a much broader sense.

And unfortunately it is not an isolated incident. In recent months Norman Finkelstein has been denied tenure at DePaul University in Chicago when the president overturned a faculty recommendation. This case in some ways is an even more outrageous intrusion on academic freedom than occurred in relation to Churchill. Finkelstein is a prominent scholar and admired teacher whose only sin was to tackle controversial issues in a provocative manner that agitated some influential and inflammatory public personalities, such as Alan Dershowitz. The resulting message is as clear as it is truly *dangerous*: if you wish to succeed in academic life in the United States, do not challenge conventional wisdom and influential policy positions backed by powerful vested interests. The Finkelstein case remains unresolved, but its very existence is an ugly reminder that academic freedom is truly under siege at this time.

Of course, tolerance for public utterance and scholarship has some proper limits. As Kwame Anthony Appiah reminds us in his book, *Cosmopolitanism*, "[t]olerance requires a concept of intolerance" (Appiah 2006, 144). There are ethical and pedagogical limits, so widely affirmed, that their violation may be grounds for censure, or even dismissal. No society needs to tolerate the advocacy of genocide or the encouragement of abuse and incitement directed at such vulnerable groups as gays or minorities. Of course, interpreting the specifics of what is intolerable needs to proceed with the greatest caution, and err always on

the side of tolerance. At issue, is a subtle, somewhat fuzzy, distinction between *ideas* and *behavior*. For instance, how should a Holocaust denier or defender be treated with respect to academic freedom? Should *Mein Kampf* be published in Europe, and elsewhere, and made available for distribution by bookstores? In my view, if the empirical claim is so lacking in credibility and dubious, and the relation clear to hateful behavior, as measured by ethical, legal, and human rights standards, then such views should not be tolerated within a classroom, especially if such warped interpretations of history feed the fears and actualities of anti-semitism. In addition, the position taken by the Holocaust denier or defender is particularly disturbing, even wounding, to Jews generally, and especially to those Jews who are survivors or have relatives who were victims. The case becomes more difficult if such ideas are expressed in scholarly writing or public lectures for which attendance is voluntary. On the one side, clearly a lecture hall depends on relations of trust, which requires a faculty member to act responsibly under all circumstances, given her/his role as authority figure and the typical student's subordinate status and probable young age. On the other side, is the expectation that students will not be discouraged from expressing their views, however, much they may depart from those of their teacher, or from the hallowed orthodoxies of the present moment.

It is difficult to the point of impossibility to draw specific boundaries with respect to what is impermissible in the classroom. What about denials of the Turkish genocide perpetrated in 1915 against Armenians, which remains strongly contested, at least in Turkey? Should those who engage in this work of denial be protected when expressing such a dissident interpretation of history that evokes painful memories and inflames unhealed wounds among the Armenian community? Should distinctions be drawn between the classroom, the public lecture, professional consulting work, publications? Without doubt a strong presumption in favor of free expression should provide the norm; tolerance is the rule, intolerance the exception sparingly reserved for the hurtfully outrageous as carefully and impartially interpreted.

In no way, however, can the attacks on Churchill and Finkelstein, and several others within universities, be justified as a matter of zoning off the intolerable. As Horowitz's book confirms, any expression of dissident ideas on the intellectual left is fair game, and the ethics of denunciation and discrediting need not even be required to establish any plausible connections between the allegations and the realities. For instance, in the short sketch on my supposedly dangerous activities, Horowitz associates me with a heavy involvement in the activities of the International Association of Democratic Lawyers, a left professional association of lawyers that was especially active during the Cold War in Western Europe. I was never a member of this organization, and never was very familiar with its ideological orientation. I did speak under its auspices once on the relevance of international law to the Vietnam War, but I also spoke on similar themes at the Council on Foreign Relations, West Point, The Naval Academy, and The Naval War College. Horowitz also attacks me because of my opposition to the Iraq War and for views suggesting that war might not be the most effective manner to deal with the sort of extremist adversary that perpetrated 9/11. In other words, as with Churchill, the denunciation is based on the expression of ideas that depart from an extreme right-wing conception of political correctness. Such an understanding of what is dangerous is particularly unfortunate, as it tends to immunize only expression of the banal *official truths* endorsed by the U.S. government at any given time and the most reactionary expressions of militancy. Rightist figures are able say truly dangerous things in large public arenas where serious political consequences might result, and yet they suffer no adverse career consequences, or even an erosion of influence and stature. Pat Robertson, for instance, advocated on a radio broadcast the assassination of Hugo Chavez, a

foreign leader elected by the people of his country, and yet experienced not even a mild rebuke from responsible political leaders.

A witch hunt that focuses on the most visible academic critics of present policy has the intended effect of generating an overall climate of intimidation within university settings. It becomes costly to express dissident ideas, and professionally seems imperative, or at least prudent, to shut up. It is not only prominent individuals such as Churchill and Finkelstein who become targets. Consider the recent case of a previously obscure Brigham Young professor of physics Stephen Jones, who has been temporarily suspended from teaching because he has cast doubt on the official version of what actually happened on 9/11 (see Jones 2007). This respected scientist raised crucial issues, based on his professional knowledge of the physics and engineering associated with collapsing buildings, a proper understanding of which bear fundamentally on the legitimacy of the recent governing process in this country. Clarifying the reality of 9/11 could go a long way to shaping the responsibilities of citizens in this country. Even without assaults on academic freedom, it requires some courage to go against the mainstream on ultra-sensitive issues that can agitate large segments of the public and annoy the academic mainstream. For teachers to speak out often on controversial questions invites contempt from more timid and conventional scholars. But without those voices of dissent heard in public arenas, society loses the benefit of a creative tension associated with contested ideas, which invites their resolution, not by censure and punishment, but by confronting evidence and engaging in reasoned debate. To contemplate disciplinary action against Professor Jones sends a chilling message to anyone in academic life who may have knowledge, which if disclosed in a manner that reaches members of the public or custodians of academic conformity, could embarrass or discredit the political leadership in this country. Considering the reliance of the government on secrecy, especially where international policy is involved, the social benefits of encouraging the free flow of private and public sector scholarship and the vetting of ideas can hardly be overstated.

We who work within the domain of international studies have a particular mission to protect academic freedom, particularly here in the United States. This country exerts an influence that extends far beyond its boundaries, often shaping the destinies of foreign countries. National elections in the United States are frequently more consequential for citizens of these countries than the outcome of their own elections. In many significant respects, given the global role of the United States, much of the world is significantly disenfranchised, even if their own national political system successfully functions territorially as a democracy. To compensate to some degree for this dimension of a largely unacknowledged global "democratic deficit" there at least needs to be a robust capacity within American society to challenge through critical thought prevailing policies of the government. Criticism operates as a safety valve, although it is far from a substitute for empowering the peoples of the world to participate meaningfully in the formation of policies that impact upon their lives, their hopes, and their individual and collective destinies.¹ If oppositional voices are silenced in the United States, then foreign societies are denied even this indirect and tenuous form of participation in American political debates over policies that have resulted or could result in the destruction of their economic, environmental, and even physical well-being.

Obviously, this concern is greatest when the subject-matter of controversial behavior has to do with world affairs or foreign policy. In this sense, the Interna-

¹One further partial attempt to address this issue is through the establishment of a Global Peoples Parliament, inspired to some extent by the European Parliament. For this argument see Falk and Strauss (2000).

tional Studies Association has strong selfish motivations to sustain a vibrant regime of protection for academic freedom. The integrity of the overall ISA role depends on its authenticity and perceived scholarly independence of governments, political parties, private pressure groups, and vested interests of any kind. Its meetings and journals can have credibility only if open to a wide range of viewpoints, including those drastically at odds with prevailing policies. Many junior participants in academic life will be particularly sensitive to the degree to which entry into controversy seems to jeopardize their career prospects. Even if unconsciously, many will refrain from taking unpopular and dissident positions that bear on prevailing policies. Many will only feel emboldened to speak their mind freely in the future if a widely shared commitment to close ranks exists in universities and professional associations, and proves effective, in response to recent assaults on academic freedom.

Such an argument for political openness is further supported by the passivity of the media, Congress, and opposition politics in post-9/11 America. There has been an almost total absence of serious public debate in this country with respect to the most controversial policies adopted by the government during the Bush presidency. Even highly respected media outlets almost always defer to the government, especially in the area of national security. In this spirit, the media have ignored, if not actively suppressed, abundant evidence of the unlawfulness of proposed or ongoing American actions in the world, and fail to prepare the people of this country to act as responsible citizens informed about options, alternatives, and the full range of considerations bearing on national and global security, given the realities of the 21st century. The failure of even the *New York Times*, the self-proclaimed gold standard of journalism, to give any pre-war attention to arguments based on international law that opposed the invasion of Iraq is a recent example of a far broader pattern of unwillingness to give their readers the range of considerations needed for an informed judgment on such a vital question of national policy (Friel and Falk 2004).

This issue of academic freedom takes on its particular coloration based on the background political culture and the historical moment. Public intellectuals in Europe, especially France, exert an influence only dreamed of by those of working in the United States. But even in these countries this influence waxes and wanes over time. After World War II, such figures as Jean-Paul Sartre and Albert Camus personified this high stature. Today, there are no comparable figures, and there has been some turn against public intellectuals, reflective of a rightward drift, a skepticism associated with earlier misguided sympathies with the Soviet Union, and the general immersion of the public with the rights and wrongs of globalization.

In America, there have been some truly exceptional figures, including within the confines of the university, most notably Noam Chomsky and the recently deceased Edward Said. Both are world class scholars whose work was globally celebrated quite apart from their conscious mid-career decisions to speak out as public intellectuals on controversial questions (Chomsky 1969; Said 1979). Pointing to such famous persons who maintained their prominent university positions without difficulty, despite enduring a constant backlash of denunciations and threats, does not provide any relevant reassurance about the current quality of academic freedom. Very few members of the academic community will ever achieve eminence, nor should this be a requirement for an entitlement to speak out on controversial issues. Of course, not every scholar needs to feel obliged to be a public intellectual. Most persons lack such a vocation, and view their roles and views as citizen as falling within a personal domain, much as many regard their religious or spiritual beliefs as purely private matters. This is fine. The issue of concern is providing confidence to those who do feel the impulse to speak out at teach-ins, demonstrations, media outlets, and in a variety of academic and

semi-academic settings, expressing views that offend portions of the wider community, but are potentially beneficial, possibly even essential, with respect to fostering a fuller understanding of contested issues. The arbiters of acceptable viewpoints are emboldened to act more intrusively within the university whenever the societal climate seems ready to clamp down on dissident ideas, and their strategy as in a lion hunt, is to focus their toxic energies on those in the scholarly herd who seem most vulnerable to attack.

It is at such times of national reckoning that the mainstream professional ethos is tested. The tendency at moments of crisis is for influential voices in the universities to side at least tacitly with the policies of the elected government, especially if the academic institution has an insecure funding base and is run by politically aspiring administrative leaders. I remember being told during the Vietnam War that my public opposition to the war was costing Princeton one million dollars a year in alumni contributions. It was my good fortune to have tenure, support from immediate colleagues and most administrators, and to be part of a university with a hyper-secure financial base. But even in such a protected enclave, academic freedom is being constantly tested, especially behind closed doors. It appears that in 2006 Yale University was on the verge of making the Middle East specialist, Juan Cole, an offer, currently on the faculty at the University of Michigan. At the last minute, because of an administrative override, the offer to Cole was not tendered, and without explanation.² Such an action is obviously disappointing for the person so treated even though Cole retains a secure position at a first-rate university. At the same time, Yale students lose the opportunity to have Cole in their midst, even though the relevant Yale faculty departments had decided after a thorough search that Cole was the most qualified candidate.

The unavoidable message of such an incident is that you had better stay below the radar screen, that is, refrain from voicing the controversial, if you want to be fully recognized within the profession, and this applies even to the most established, reputable scholars. In certain respects, this is a more chilling message than the attack on Churchill or Finkelstein, as Cole, although a public intellectual, listed among the 101, and author of a widely read blog that was highly critical of U.S. policies in the Middle East, published widely and his work was respected, influential, and admired by most professionals. In effect, even though it was a matter of thwarting a professional opportunity rather than challenging tenure or academic standing, Cole's experience reminds us that academic freedom is being seriously eroded in many subtle ways, and that not all of our attention should be devoted to the most extreme cases. Universities, editorial boards, publishers do not have to give reasons for their decisions, but it seems hardly paranoid to suppose that in the current atmosphere where critical voices within universities are being subject to systematic, well-organized, well-financed attacks, individuals with provocative views and writings are often quietly passed over to avoid future trouble. Such an atmosphere invites self-censorship. Even before the current inflamed climate, and aside from earlier threats to academic freedom such as those resulting from McCarthyism and pressures during the Cold War for ideological conformity, the gatekeepers at most universities do their best, rather successfully, under normal circumstances to deny entry to progressive public intellectuals. It is a revealing confirmation of this conformist atmosphere that many of America's finest universities did not have a single faculty member who made the Horowitz 101 roster, despite the low and arbitrary thresholds for inclusion.

The Cole experience reminds us of one other set of considerations. There is much talk on the right of liberal bias among college faculties, but little acknowl-

²For an account, including some consideration of broader issues see Hammer (2006).

edgment that within these institutions there exists a subtle, yet powerful reverse ideological spin. Those faculty members who are awarded lucrative consulting arrangements with conservative think tanks, invited to make presentations at the Council on Foreign Relations or to government agencies are regarded as bringing prestige to themselves and their institutions, and this is definitely taken into favorable account whenever issues of tenure, promotion, salary, and other career issues arise. I have seen this insidious dynamic at work during my several decades as a faculty member at Princeton. It is consistently the opposite for those of us who are active in the village square or within the halls of academe. At best, our presence is tolerated as a burden of liberal values, with the banners of academic freedom being waived conspicuously to demonstrate that universities retain their commitment to intellectual pluralism. Even vigorous defenses of academic freedom are not healthy signs, if what is desired is a learning community in which freedom of expression is taken for granted, flourishing in such a way that citizen engagement with the controversies of the day is considered normal, a defining sign of institutional vitality.

Of course, if the repressive atmosphere intensifies, and the country slides further in an autocratic direction, those kinds of protections become irrelevant. The Horowitz book and the Churchill witch hunt can be best understood as organized, undoubtedly conscious, efforts to make a robust form of academic freedom non-viable even at elite institutions of higher learning. While Edward Said was alive, he served as a lightning rod for anti-Palestinian pressures at Columbia, with his stature sufficient to keep hostile forces at bay. But since his death in 2003 there has been a concerted push to purge and punish professors perceived to be critical of Israel. If the philosophically (not politically) liberal and self-confident Ivy League universities become craven and compliant, then it will quickly establish a national climate of intimidation and self-censorship that will generally pervade learning communities.

To be this concerned about academic freedom is itself a warning bell. Ideally, academic freedom functions as the oxygen of the life of the mind—indispensable, yet invisible and so strongly presupposed that its defense is superfluous. As with oxygen we become acutely conscious of academic freedom when it is not present in sufficient quantities for normal breathing. When academic freedom is threatened, the most sustaining response, is an unyielding and unapologetic defense *on principle*.

References

- APPIAH, KWAME ANTHONY. (2006). *Cosmopolitanism: Ethics in a World of Strangers*. New York: W.W.Norton.
- CHOMSKY, NOAM. (1969). The Responsibility of Intellectuals. In *American Power and the New Mandarins*. New York: Pantheon.
- FALK, RICHARD, AND ANDREW STRAUSS. (2000). On the Creation of a Global Peoples Assembly: Legitimacy and the Power of Popular Sovereignty. *Stanford Journal of International Law* 36(2): 191–219.
- FRIEL, HOWARD, AND RICHARD FALK. (2004). *The Record of the Paper: How the New York Times Misreports Foreign Policy*. New York: Verso.
- HAMMER, ALEX. (2006). When Free Speech Costs a Career. *The Yale Herald*, September 15.
- JONES, STEPHEN E. (2007). Why Indeed Did the World Trade Center Buildings Collapse? In *9/11 and the American Empire*, edited by D. Ray Griffin and P. Dale Scott. Northampton, MA: Olive Branch Press.
- SAID, EDWARD W. (1979). *The Question of Palestine*. New York: Times Books.